

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

) CASE CLOSURES UNDER
) ENFORCEMENT PRIORITY
)RECEIVED
FEDERAL ELECTION
COMMISSION
JUN 26 A 9 32

GENERAL COUNSEL'S REPORT

SENSITIVE**I. INTRODUCTION**

The cases listed below have been evaluated under the Enforcement Priority System ("EPS") and identified as either low priority, stale, or the statute of limitations has expired. This report is submitted in order to recommend that the Commission no longer pursue these cases for the reasons noted below.

II. CASES RECOMMENDED FOR CLOSURE**A. Cases Not Warranting Further Action Relative to Other Cases Pending Before the Commission**

EPS was created to identify pending cases that, due to the length of their pendency in inactive status, or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditures of resources. Central Enforcement Docket ("CED") evaluates each incoming matter using Commission-approved criteria that result in a numerical rating for each case.

Closing these cases permits the Commission to focus its limited resources on more important cases presently pending in the Enforcement docket. Based upon this review, we have identified cases that do not warrant further action relative to other pending matters. We recommend that all be closed. The attachments to this report contain a factual summary of each case recommended for closure, the case EPS rating, and the factors leading to the assignment of a low priority.

¹ These cases are:

22.04.405.4694

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources primarily because the evidence of such activity becomes more difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. EPS provides us with the means to identify those cases that, remain unassigned for a significant period due to a lack of staff resources for an effective investigation. The utility of commencing an investigation declines as these types of cases age, until they reach a point when activation of such cases would not be an efficient use of the Commission's resources.

We have identified cases that have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We recommend that cases be closed³

III. CASES RECOMMENDED FOR CLOSURE FOLLOWING PERMANENT TRANSFER TO ADR

Additionally, the ADR Office has bifurcated the respondents in ADR 027 (formerly MUR 5062) by reaching settlements

³ These cases are: P-MUR 395 (*College Republican National Committee*); MUR 4948 (*Republican Leadership Council*); and MUR 5032 (*Million Mom March*).

with fourteen respondents and returning the remaining eleven respondents with whom the ADR Office could not reach a settlement or receive a buy-in into the ADR process. This Office recommends closing the remaining eleven respondents in ADR 027, including Westside Chemical Company.

22.04.405.4696

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V. **RECOMMENDATIONS**

OGC recommends that the Commission exercise its prosecutorial discretion and close the cases listed below effective two weeks from the day that the Commission votes on the recommendations. Closing these cases as of this date will allow CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

1. Decline to open a MUR, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letter in:

P-MUR 395

2. Take no action, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters in:

MUR 4948

MUR 5032

MUR 5196

22-04-405-4697

3. Take no action, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters in ADR 027 (formerly MUR 5062) with respect to the following respondents:

Verdegaal Brothers, Inc.; Overland Stock Yards; E & B Landscape and Garden Supplies, Inc.; Westside Chemical Company; Quick Signs, Inc.; Gregory Schneider; Western Building Properties Association; Orosi Swap Meet; Schaller Bail Bonds; Triple B Farms; and Arvel Legal Systems.

10/26/01

Date



Lawrence H. Norton
General Counsel

22.04.405.4698

MUR 4948
REPUBLICAN LEADERSHIP COUNCIL

The Complainant, William A. Dal Col, President of Forbes 2000, Inc., alleges that the Republican Leadership Council ("RLC") and its affiliates made excessive and prohibited in-kind contributions to the Bush for President Exploratory Committee ("Bush Committee") by producing and promoting television advertisements against Steve Forbes. The aggregate cost of the advertisements, which ran in various states, was estimated to be \$100,000. Mr. Dal Col further alleges that the advertisements were likely paid for by RLC's non-federal account, which contained prohibited funds. Further, the disclaimer on the advertisements allegedly failed to clarify exactly which RLC entity had paid for its production. Thus, Mr. Dal Col believes that as a result of making these expenditures, the non-federal account should have registered and reported as a political committee. Additionally, Mr. Dal Col alleges that RLC coordinated its efforts with Bush Committee employees, consultants, and vendors. Finally, Mr. Dal Col claims that RLC's website contains express advocacy without displaying an appropriate disclaimer.

Mr. Dal Col also submitted an amendment reiterating the allegations in the original complaint, requesting that the Commission process the complaint expeditiously, and restrain the RLC from making future illegal expenditures. Additionally, the amendment alleges that the RLC's non-federal account made excessive in-kind contributions to the Bush Committee by expending prohibited funds for radio advertisements against candidate Steve Forbes.

The Bush Committee responded by noting that the television advertisements in question, as a matter of law, did not contain express advocacy and, therefore, there was no reason to believe the FECA was violated. Furthermore, even if the Commission found the television advertisements contained express advocacy, there was no coordination between the Bush Committee and the RLC. Thus, the Bush Committee could not be found to have accepted impermissible in-kind contributions from the RLC.

The RLC responded that under the express advocacy standard, there was no basis for finding a FECA violation in this matter. Further, even if the Commission found express advocacy, there would still be no FECA violation since the RLC did not coordinate the television advertisements with the Bush Committee. Also, there was no requirement to place a disclaimer on RLC's website, since the site did not contain express advocacy.

22-04-405-4699